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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/854,095	05/11/2001	James E. Kocol	SUN-P5390-RJL	7707

22835 7590 09/07/2004

PARK, VAUGHAN & FLEMING LLP  
508 SECOND STREET  
SUITE 201  
DAVIS, CA 95616

EXAMINER
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BRITT, CYNTHIA H

ART UNIT	PAPER NUMBER
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2133

DATE MAILED: 09/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/854,095

Applicant(s)

KOCOL ET AL.

Examiner

Cynthia Britt

Art Unit

2133

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 16 June 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☒ Newly proposed or amended claim(s) 19 and 20 would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1-20.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☒ Other: Response to Amendments/Arguments

  
ALBERT DECADY  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100

**RESPONSE TO AMENDMENTS/ARGUMENTS**

***Claim Rejections - 35 USC § 112***

1. The proposed amendments made to claims 1 and 10 in the after final amendment mailed 6/14/04, obviate the prior 112 first and second paragraph rejections put forth in the final office action mailed 06/04/04. However, the amendments raise new issues that would require further consideration and examination and as such, will not be entered. The amendments to claims 1 and 10, when taken in conjunction with the arguments presented with the amendment mailed 3/19/04, argue that the application of Chaudhry et al., U.S. 2002/0157056 in view of Arimilli et al, U.S. 6,480,975, no longer reads on the amended claims put forth first in the amendment mailed 3/19/04, and later modified in the after final amendment mailed 6/14/04, because the Applicant contends that the teachings of Chaudhry in view of Arimilli fail to teach to **“returning the data to memory”** (Amendment 3/19//04: Pg.8: 12-13). The Applicant further argues that since Chaudhry in view of Arimilli fail to teach to this aspect of the invention, that independent claims 1, 10, and 19 should be allowable. The Examiner would like to point out that there is no limitation in independent claims 1 or 10, either in the amendment filed 3/19, nor in the amendment filed 6/14, that disclose the returning of the data from the cache location to the memory location. In fact, the limitations actually teach away from such a limitation, claiming only to “read the corresponding line in the processor cache and correct any errors”. As such, the argument that the cited art of record fails to teach to “returning the data to memory” is irrelevant, as the aforementioned limitation is not claimed in independent claims 1 and 10.

***Claim Rejections - 35 USC § 102***


2. As per claims 19 and 20, the amendments filed 6/14/04 overcome the currently applied 102 art rejections as applied in the final rejection mailed 06/04/04, however the amendments raise new issues that would require further consideration and examination and as such, will not be entered.

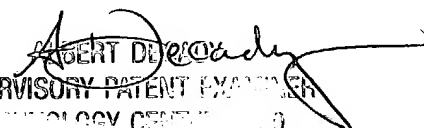
***Conclusion***

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cynthia Britt whose telephone number is 703-308-2391. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert Decady can be reached on (703) 305-9595. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Cynthia Britt  
Examiner AU 2133  
8/1/04

  
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